

Calendar No. 92

111TH CONGRESS
1ST SESSION**S. 1393**

To authorize appropriations for fiscal year 2010 for defense activities of
the Department of Energy, and for other purposes

IN THE SENATE OF THE UNITED STATES

JULY 2, 2009

Mr. LEVIN, from the Committee on Armed Services reported under authority
of the order of the Senate of June 25, 2009, the following original bill;
which was read twice and placed on the calendar

A BILL

To authorize appropriations for fiscal year 2010 for defense
activities of the Department of Energy, and for other
purposes

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Energy
5 National Security Act for Fiscal Year 2010”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

- Sec. 2. Table of contents.
- Sec. 3. Congressional defense committees.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY
AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY
PROGRAMS

Subtitle A—National Security Programs Authorizations

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental cleanup.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.
- Sec. 3105. Funding table.

Subtitle B—Program Authorizations, Restrictions, and Limitations

- Sec. 3111. Nuclear weapons stockpile life extension program.
- Sec. 3112. Elimination of nuclear weapons life extension program from exception to requirement to request funds in budget of the President.
- Sec. 3113. Repeal of Reliable Replacement Warhead program.
- Sec. 3114. Authorization of use of International Nuclear Materials Protection and Cooperation program funds for bilateral and multilateral nonproliferation and disarmament activities.
- Sec. 3115. Repeal of prohibition on funding activities associated with international cooperative stockpile stewardship.
- Sec. 3116. Modification of minor construction threshold for plant projects.
- Sec. 3117. Two-year extension of authority for appointment of certain scientific, engineering, and technical personnel.
- Sec. 3118. Repeal of sunset date for consolidation of counterintelligence programs of Department of Energy and National Nuclear Security Administration.

Subtitle C—Other Matters

- Sec. 3131. Ten-year plan for utilization and funding of certain Department of Energy facilities.
- Sec. 3132. Review of management and operation of certain national laboratories.
- Sec. 3133. Inclusion in 2010 stockpile stewardship plan of certain information relating to stockpile stewardship criteria.
- Sec. 3134. Comptroller General of the United States review of projects carried out by the Office of Environmental Management of the Department of Energy pursuant to the American Recovery and Reinvestment Act of 2009.
- Sec. 3135. Identification in budget materials of amounts for certain Department of Energy pension obligations.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

- Sec. 3201. Authorization.

TITLE XXXIII—MARITIME ADMINISTRATION

- Sec. 3301. Maritime Administration.

1 **SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

2 For purposes of this Act, the term “congressional de-
 3 fense committees” has the meaning given that term in sec-
 4 tion 101(a)(16) of title 10, United States Code.

5 **DIVISION C—DEPARTMENT OF**
 6 **ENERGY NATIONAL SECURITY**
 7 **AUTHORIZATIONS AND**
 8 **OTHER AUTHORIZATIONS**
 9 **TITLE XXXI—DEPARTMENT OF**
 10 **ENERGY NATIONAL SECURITY**
 11 **PROGRAMS**

12 **Subtitle A—National Security**
 13 **Programs Authorizations**

14 **SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRA-**
 15 **TION.**

16 (a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds
 17 are hereby authorized to be appropriated to the Depart-
 18 ment of Energy for fiscal year 2010 for the activities of
 19 the National Nuclear Security Administration in carrying
 20 out programs necessary for national security in the
 21 amount of \$10,051,215,000, to be allocated as follows:

22 (1) For weapons activities, \$6,490,619,000.

23 (2) For defense nuclear nonproliferation activi-
 24 ties, including \$705,900,000 for fissile materials dis-
 25 position, \$2,136,709,000.

26 (3) For naval reactors, \$1,003,133,000.

1 (4) For the Office of the Administrator for Nu-
2 clear Security, \$420,754,000.

3 (b) AUTHORIZATION OF NEW PLANT PROJECTS.—
4 From funds referred to in subsection (a) that are available
5 for carrying out plant projects, the Secretary of Energy
6 may carry out new plant projects for the National Nuclear
7 Security Administration as follows:

8 (1) For readiness in technical base and facili-
9 ties, the following new plant project:

10 Project 10–D–501, Nuclear Facility Risk
11 Reduction (NFRR), Y–12 National Security
12 Complex, Oak Ridge, Tennessee, \$12,500,000.

13 (2) For defense nuclear security, the following
14 new plant project:

15 Project 10–D–701, Security Improvement
16 Project (SIP), Y–12 National Security Com-
17 plex, Oak Ridge, Tennessee, \$49,000,000.

18 (3) For naval reactors, the following new plant
19 projects:

20 Project 10–D–904, Naval Reactors Facility
21 (NRF) infrastructure upgrades, Naval Reactors
22 Facility, Idaho Falls, Idaho, \$700,000.

23 Project 10–D–903, Security upgrades,
24 Knolls Atomic Power Laboratory, Knolls Site

1 and Kesselring Site, Schenectady, New York,
2 \$1,500,000.

3 **SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.**

4 Funds are hereby authorized to be appropriated to
5 the Department of Energy for fiscal year 2010 for defense
6 environmental cleanup activities in carrying out programs
7 necessary for national security in the amount of
8 \$5,395,831,000.

9 **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

10 Funds are hereby authorized to be appropriated to
11 the Department of Energy for fiscal year 2010 for other
12 defense activities in carrying out programs necessary for
13 national security in the amount of \$852,468,000.

14 **SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

15 Funds are hereby authorized to be appropriated to
16 the Department of Energy for fiscal year 2010 for defense
17 nuclear waste disposal for payment to the Nuclear Waste
18 Fund established in section 302(c) of the Nuclear Waste
19 Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount
20 of \$98,400,000.

21 **SEC. 3105. FUNDING TABLE.**

22 The amounts authorized to be appropriated by sec-
23 tions 3101, 3102, 3103, and 3104 shall be available, in
24 accordance with the requirements of section 4001, for

1 projects, programs, and activities, and in the amounts,
 2 specified in the funding table in section 4501.

3 **Subtitle B—Program Authoriza-**
 4 **tions, Restrictions, and Limita-**
 5 **tions**

6 **SEC. 3111. NUCLEAR WEAPONS STOCKPILE LIFE EXTEN-**
 7 **SION PROGRAM.**

8 Section 4204 of the Atomic Energy Defense Act (50
 9 U.S.C. 2524) is amended to read as follows:

10 **“SEC. 4204. NUCLEAR WEAPONS STOCKPILE LIFE EXTEN-**
 11 **SION PROGRAM.**

12 “(a) PROGRAM REQUIRED.—The Secretary of En-
 13 ergy shall, in consultation with the Secretary of Defense,
 14 carry out a program to provide for the extension of the
 15 effective life of the weapons in the nuclear weapons stock-
 16 pile without nuclear weapons testing.

17 “(b) ADMINISTRATIVE RESPONSIBILITY FOR PRO-
 18 GRAM.—

19 “(1) IN GENERAL.—The program under sub-
 20 section (a) shall be carried out through the National
 21 Nuclear Security Administration.

22 “(2) INCLUSION OF PROGRAM FUNDS IN BUDG-
 23 ET.—For each budget submitted by the President to
 24 Congress under section 1105 of title 31, United
 25 States Code, the amounts requested for the program

1 under subsection (a) shall be clearly identified in the
2 budget justification materials submitted to Congress
3 in support of that budget.

4 “(c) PROGRAM PLAN.—As part of the program under
5 subsection (a), the Secretary of Energy shall develop a
6 long-term plan to extend the effective life of the weapons
7 in the nuclear weapons stockpile without nuclear weapons
8 testing. The plan shall include the following:

9 “(1) Mechanisms to provide for the manufac-
10 ture, maintenance, and modernization of each weap-
11 on design in the nuclear stockpile, as needed.

12 “(2) Mechanisms to expedite the collection of
13 information necessary for carrying out the program,
14 including information relating to the aging of mate-
15 rials and components, new manufacturing tech-
16 niques, and the replacement or substitution of mate-
17 rials.

18 “(3) Mechanisms to ensure the appropriate as-
19 signment of roles and missions for each nuclear
20 weapons laboratory and production plant of the De-
21 partment of Energy, including mechanisms for allo-
22 cation of workload, mechanisms to ensure the car-
23 rying out of appropriate modernization activities,
24 and mechanisms to ensure the retention of skilled
25 personnel.

1 “(4) Mechanisms to ensure that each national
2 laboratory of the National Nuclear Security Admin-
3 istration has full and complete access to all weapons
4 data to enable a rigorous peer review process to sup-
5 port the annual assessment of the condition of the
6 nuclear weapons stockpile required under section
7 4205.

8 “(5) Mechanisms for allocating funds for activi-
9 ties under the program, including allocations of
10 funds by weapon type and facility.

11 “(6) An identification of the funds needed, in
12 the current fiscal year and in each of the next 5 fis-
13 cal years, to carry out the program.

14 “(d) ANNUAL UPDATES.—The Secretary of Energy
15 shall update the plan required under subsection (c) annu-
16 ally and shall submit the updated plan to Congress as part
17 of the plan for maintaining the nuclear weapons stockpile
18 submitted to Congress under section 4203(c).

19 “(e) SENSE OF CONGRESS ON FUNDING OF PRO-
20 GRAM.—It is the sense of Congress that the President
21 should include in each budget for a fiscal year submitted
22 to Congress under section 1105 of title 31, United States
23 Code, sufficient funds to carry out in that fiscal year the
24 activities under the program under subsection (a) that are

1 specified in the most current version of the plan required
 2 under subsection (c).”.

3 **SEC. 3112. ELIMINATION OF NUCLEAR WEAPONS LIFE EX-**
 4 **TENSION PROGRAM FROM EXCEPTION TO RE-**
 5 **QUIREMENT TO REQUEST FUNDS IN BUDGET**
 6 **OF THE PRESIDENT.**

7 Section 4209 of the Atomic Energy Defense Act (50
 8 U.S.C. 2529) is amended—

9 (1) in subsection (c), by striking “necessary—
 10 ” and all that follows through the period and insert-
 11 ing “necessary to address proliferation concerns.”;
 12 and

13 (2) in subsection (d)—

14 (A) by striking paragraph (1); and

15 (B) by redesignating paragraphs (2) and
 16 (3) as paragraphs (1) and (2), respectively.

17 **SEC. 3113. REPEAL OF RELIABLE REPLACEMENT WARHEAD**
 18 **PROGRAM.**

19 (a) IN GENERAL.—Section 4204A of the Atomic En-
 20 ergy Defense Act (50 U.S.C. 2524a) is repealed.

21 (b) CONFORMING AMENDMENT.—The table of con-
 22 tents for that Act is amended by striking the item relating
 23 to section 4204A.

1 **SEC. 3114. AUTHORIZATION OF USE OF INTERNATIONAL**
2 **NUCLEAR MATERIALS PROTECTION AND CO-**
3 **OPERATION PROGRAM FUNDS FOR BILAT-**
4 **ERAL AND MULTILATERAL NONPROLIFERA-**
5 **TION AND DISARMAMENT ACTIVITIES.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law and subject to subsection (b), the Secretary
8 of Energy may obligate or expend not more than 10 per-
9 cent of the funds authorized to be appropriated or other-
10 wise made available for the International Nuclear Mate-
11 rials Protection and Cooperation program in a fiscal year
12 to provide assistance for or to otherwise carry out bilateral
13 or multilateral activities relating to nonproliferation or
14 disarmament.

15 (b) NOTIFICATION OF CONGRESSIONAL DEFENSE
16 COMMITTEES.—The Secretary may obligate or expend
17 funds pursuant to subsection (a) if, not less than 15 days
18 before obligating or expending such funds—

19 (1) the Secretary notifies the congressional de-
20 fense committees of the intent of the Secretary to
21 obligate or expend such funds; and

22 (2) the President certifies to the congressional
23 defense committees that obligating or expending
24 such funds is necessary to support the national secu-
25 rity objectives of the United States.

1 **SEC. 3115. REPEAL OF PROHIBITION ON FUNDING ACTIVI-**
2 **TIES ASSOCIATED WITH INTERNATIONAL CO-**
3 **OPERATIVE STOCKPILE STEWARDSHIP.**

4 (a) IN GENERAL.—Section 4301 of the Atomic En-
5 ergy Defense Act (50 U.S.C. 2561) is repealed.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 for that Act is amended by striking the item relating to
8 section 4301.

9 **SEC. 3116. MODIFICATION OF MINOR CONSTRUCTION**
10 **THRESHOLD FOR PLANT PROJECTS.**

11 Section 4701(3) of the Atomic Energy Defense Act
12 (50 U.S.C. 2741(3)) is amended by striking “\$5,000,000”
13 and inserting “\$7,000,000”.

14 **SEC. 3117. TWO-YEAR EXTENSION OF AUTHORITY FOR AP-**
15 **POINTMENT OF CERTAIN SCIENTIFIC, ENGI-**
16 **NEERING, AND TECHNICAL PERSONNEL.**

17 Section 4601(c)(1) of the Atomic Energy Defense Act
18 (50 U.S.C. 2701(c)(1)) is amended by striking “Sep-
19 tember 30, 2009” and inserting “September 30, 2011”.

20 **SEC. 3118. REPEAL OF SUNSET DATE FOR CONSOLIDATION**
21 **OF COUNTERINTELLIGENCE PROGRAMS OF**
22 **DEPARTMENT OF ENERGY AND NATIONAL**
23 **NUCLEAR SECURITY ADMINISTRATION.**

24 Section 3117 of the John Warner National Defense
25 Authorization Act for Fiscal Year 2007 (Public Law 109–

1 364; 120 Stat. 2507; 42 U.S.C. 7144b note) is amended
 2 by amending subsection (a) to read as follows:

3 “(a) TRANSFER OF FUNCTIONS.—The functions, per-
 4 sonnel, funds, assets, and other resources of the Office of
 5 Defense Nuclear Counterintelligence of the National Nu-
 6 clear Security Administration are transferred to the Sec-
 7 retary of Energy, to be administered (except to any extent
 8 otherwise directed by the Secretary) by the Director of the
 9 Office of Counterintelligence of the Department of En-
 10 ergy.”.

11 **Subtitle C—Other Matters**

12 **SEC. 3131. TEN-YEAR PLAN FOR UTILIZATION AND FUND-** 13 **ING OF CERTAIN DEPARTMENT OF ENERGY** 14 **FACILITIES.**

15 (a) IN GENERAL.—The Administrator for Nuclear
 16 Security and the Under Secretary for Science of the De-
 17 partment of Energy shall jointly develop a plan to use and
 18 fund, over a ten-year period, the following facilities of the
 19 Department of Energy:

20 (1) The National Ignition Facility at the Law-
 21 rence Livermore National Laboratory, California.

22 (2) The Los Alamos Neutron Science Center at
 23 the Los Alamos National Laboratory, New Mexico.

24 (3) The “Z” Machine at the Sandia National
 25 Laboratories, New Mexico.

1 (4) The Microsystems and Engineering Sciences
2 Application (MESA) Facility at the Sandia National
3 Laboratories, New Mexico.

4 (b) SUBMITTAL OF PLAN.—Not later than 45 days
5 after the date of the enactment of this Act, the Adminis-
6 trator for Nuclear Security and the Under Secretary for
7 Science of the Department of Energy shall submit to the
8 congressional defense committees the plan required by
9 subsection (a).

10 (c) REQUIREMENT TO SPECIFY SOURCE OF FACILITY
11 FUNDING IN BUDGET REQUESTS.—In any budget request
12 for the Department of Energy for a fiscal year that is sub-
13 mitted to Congress after the date of the enactment of this
14 Act, the Secretary of Energy shall identify for that fiscal
15 year the portion of the funding for each facility specified
16 in subsection (a) that is to be provided by the National
17 Nuclear Security Administration and by the Office of
18 Science of the Department of Energy.

19 **SEC. 3132. REVIEW OF MANAGEMENT AND OPERATION OF**
20 **CERTAIN NATIONAL LABORATORIES.**

21 (a) IN GENERAL.—Not later than 60 days after the
22 date of the enactment of this Act, the Secretary of Energy
23 shall, in consultation with the Committee on Armed Serv-
24 ices of the Senate and the Committee on Armed Services
25 of the House of Representatives, appoint an independent

1 panel of experts to conduct a review of the management
2 and operation of the following:

3 (1) The Lawrence Livermore National Labora-
4 tory, California.

5 (2) The Los Alamos National Laboratory, New
6 Mexico.

7 (3) The Sandia National Laboratories, New
8 Mexico.

9 (b) ADMINISTRATIVE PROVISIONS.—

10 (1) APPOINTMENT OF CHAIRPERSON.—The
11 Secretary of Energy shall appoint a chairperson of
12 the panel from among the members of the panel.

13 (2) DESIGNATION OF AGENCY STAFF TO
14 PANEL.—The Secretary of Energy, the Secretary of
15 Defense, and the Director of National Intelligence
16 shall each designate one or more employees of the
17 Department of Energy, the Department of Defense,
18 and the intelligence community, respectively, to serve
19 as liaisons between the panel and the Department of
20 Energy, the Department of Defense, or the intel-
21 ligence community, as the case may be.

22 (3) AGENCY COOPERATION.—The Secretary of
23 Energy shall, in consultation with the Secretary of
24 Defense and the Director of National Intelligence,
25 ensure that the panel receives full and timely co-

1 operation from the Department of Energy, the De-
2 partment of Defense, and the Director of National
3 Intelligence in conducting the review required under
4 subsection (a).

5 (4) SUPPORT FROM FEDERALLY FUNDED RE-
6 SEARCH AND DEVELOPMENT CENTER.—The Sec-
7 retary of Energy may use a federally funded re-
8 search and development center not associated with
9 the Department of Energy to provide support to the
10 panel.

11 (c) ELEMENTS.—The review required under sub-
12 section (a) shall include, with respect to each laboratory
13 specified in such subsection, an evaluation of the following:

14 (1) The quality of the scientific research being
15 conducted at the laboratory, including research with
16 respect to weapons science, nonproliferation, energy,
17 and basic science.

18 (2) The quality of the engineering being con-
19 ducted at the laboratory.

20 (3) The general operations of the laboratory, in-
21 cluding the management of facilities and procedures
22 with respect to safety, security, environmental man-
23 agement and compliance, and human capital.

1 (4) The financial operations of the laboratory,
2 including contract administration, accounting con-
3 trols, and management of property and equipment.

4 (5) The management of work conducted by the
5 laboratory for entities other than the Department of
6 Energy, including academic institutions and other
7 Federal agencies, and interactions between the lab-
8 oratory and such entities.

9 (6) The adequacy and effectiveness of the form
10 and scope of current management contracts in im-
11 plementing the mission of the laboratory.

12 (7) The effectiveness of the management and
13 oversight of the laboratory by the Department of
14 Energy.

15 (d) REPORT OF PANEL.—The panel shall submit to
16 the Secretary of Energy a report containing the results
17 of the review and any recommendations of the panel re-
18 sulting from the review.

19 (e) TRANSMITTAL TO CONGRESS.—Not later than
20 January 1, 2011, the Secretary of Energy shall transmit
21 to the Committee on Armed Services of the Senate and
22 the Committee on Armed Services of the House of Rep-
23 resentatives the report of the panel submitted under sub-
24 section (d) and any comments or recommendations of the
25 Secretary with respect to that report.

1 **SEC. 3133. INCLUSION IN 2010 STOCKPILE STEWARDSHIP**
2 **PLAN OF CERTAIN INFORMATION RELATING**
3 **TO STOCKPILE STEWARDSHIP CRITERIA.**

4 (a) IN GENERAL.—The Secretary of Energy shall in-
5 clude in the 2010 stockpile stewardship plan the elements
6 specified in subsection (b).

7 (b) ELEMENTS.—The elements specified in this sub-
8 section are the following:

9 (1) An update of any information or criteria in-
10 cluded in the report on stockpile stewardship criteria
11 submitted under subsection (c) of section 4202 of
12 the Atomic Energy Defense Act (50 U.S.C. 2522).

13 (2) A description of any additional information
14 identified under paragraph (1) of such subsection (c)
15 or criteria established under subsection (a) of such
16 section 4202 during the period beginning on the
17 date of the submittal of the report under section
18 3133 of the National Defense Authorization Act for
19 Fiscal Year 2004 (Public Law 108–136; 117 Stat.
20 1751; 50 U.S.C. 2523 note) and ending on the date
21 of the submittal of the 2010 stockpile stewardship
22 plan.

23 (3) For each science-based tool developed or
24 modified by the Department of Energy during the
25 period described in paragraph (2) to collect informa-

1 tion needed to determine that the nuclear weapons
2 stockpile is safe, secure, and reliable—

3 (A) a description of the relationship of the
4 science-based tool to the collection of such in-
5 formation; and

6 (B) a description of criteria for assessing
7 the effectiveness of the science-based tool in col-
8 lecting such information.

9 (c) 2010 STOCKPILE STEWARDSHIP PLAN DE-
10 FINED.—In this section, the term “2010 stockpile stew-
11 ardship plan” means the updated version of the plan for
12 maintaining the nuclear weapons stockpile developed
13 under section 4203 of the Atomic Energy Defense Act (50
14 U.S.C. 2523) and required to be submitted to Congress
15 on May 1, 2010, by subsection (c) of such section.

16 **SEC. 3134. COMPTROLLER GENERAL OF THE UNITED**
17 **STATES REVIEW OF PROJECTS CARRIED OUT**
18 **BY THE OFFICE OF ENVIRONMENTAL MAN-**
19 **AGEMENT OF THE DEPARTMENT OF ENERGY**
20 **PURSUANT TO THE AMERICAN RECOVERY**
21 **AND REINVESTMENT ACT OF 2009.**

22 (a) IN GENERAL.—The Comptroller General of the
23 United States shall conduct a series of three reviews, as
24 described in subsections (b), (c), and (d), of projects car-
25 ried out by the Office of Environmental Management of

1 the Department of Energy (in this section referred to as
2 the “Office”) using American Recovery and Reinvestment
3 Act funds.

4 (b) PHASE ONE REVIEW.—

5 (1) IN GENERAL.—Beginning on the date of the
6 enactment of this Act, the Comptroller General shall
7 conduct a review of the following:

8 (A) The criteria used by the Office to se-
9 lect projects to be carried out using American
10 Recovery and Reinvestment Act funds.

11 (B) The extent to which lessons learned
12 during previous accelerations of defense envi-
13 ronmental cleanup efforts were used in the de-
14 velopment of such criteria.

15 (C) The process used by the Office to esti-
16 mate costs and develop schedules for such
17 projects.

18 (D) The process used by the Office for the
19 independent validation of the scope, cost, and
20 schedule for such projects.

21 (E) The criteria and methodology used by
22 the Office to measure the contribution of each
23 such project toward reducing the overall costs,
24 and meeting the goals, of defense environmental
25 cleanup.

1 (2) REPORT.—Not later than 30 days after the
2 date of the enactment of this Act, the Comptroller
3 General shall submit to the congressional defense
4 committees a report containing the results of the re-
5 view conducted under paragraph (1).

6 (c) PHASE TWO REVIEW.—

7 (1) IN GENERAL.—The Comptroller General
8 shall conduct a review, during the period described
9 in paragraph (2), of the following:

10 (A) The implementation of each project
11 carried out using American Recovery and Rein-
12 vestment Act funds.

13 (B) The extent to which each such project
14 is meeting the cost and scheduling goals of the
15 project.

16 (C) The number of jobs created or main-
17 tained through such projects.

18 (D) The adequacy of contract oversight for
19 such projects.

20 (E) Any technical problems or other prob-
21 lems in connection with such projects that are
22 identified by the Comptroller General in the
23 course of the review.

24 (F) Any management and implementation
25 issues or actions, or other systemic issues, iden-

1 tified by the Comptroller General in the course
2 of the review that either hinder or assist the ef-
3 fective management of defense environmental
4 cleanup efforts.

5 (2) PERIOD DESCRIBED.—The period described
6 in this paragraph is the period—

7 (A) beginning on the date on which the
8 Comptroller General submits the report re-
9 quired under subsection (b)(2); and

10 (B) ending on the later of—

11 (i) the date on which all projects car-
12 ried out using American Recovery and Re-
13 investment Act funds have been completed;
14 or

15 (ii) the date on which all American
16 Recovery and Reinvestment Act funds have
17 been obligated or expended or are no
18 longer available to be obligated or ex-
19 pended.

20 (3) REPORTS.—The Comptroller General shall
21 submit to the congressional defense committees a re-
22 port on the status of the review conducted under
23 paragraph (1) not later than 30 days after submit-
24 ting the report required under subsection (b)(2) and

1 every 120 days thereafter until the end of the period
2 described in paragraph (2).

3 (d) PHASE THREE REVIEW.—

4 (1) IN GENERAL.—Beginning on the date on
5 which the Comptroller General submits the last re-
6 port required under subsection (c)(3), the Comp-
7 troller General shall conduct a review of the fol-
8 lowing:

9 (A) The implementation of all projects car-
10 ried out using American Recovery and Reinvest-
11 ment Act funds, including the number of such
12 projects that were completed, that were not
13 completed, that were completed on budget, that
14 exceeded the budget for such project, that were
15 completed on schedule, and that exceeded the
16 scheduling goals for such project.

17 (B) The impact on employment as a result
18 of the completion of such projects.

19 (C) Any lessons learned as a result of ac-
20 celerating such projects.

21 (D) The extent to which the achievement
22 of the overall goals of defense environmental
23 cleanup were accelerated, and the overall costs
24 of defense environmental cleanup were reduced,
25 as a result of such projects.

1 (E) Any other issues the Comptroller Gen-
 2 eral considers appropriate with respect to such
 3 projects.

4 (2) REPORT.—Not later than 90 days after
 5 submitting the last report required under subsection
 6 (c)(3), the Comptroller General shall submit to the
 7 congressional defense committees a report containing
 8 the results of the review conducted under paragraph
 9 (1).

10 (e) AMERICAN RECOVERY AND REINVESTMENT ACT
 11 FUNDS DEFINED.—In this section, the term “American
 12 Recovery and Reinvestment Act funds” means funds made
 13 available for the Office of Environmental Management
 14 under the heading “DEFENSE ENVIRONMENTAL CLEAN-
 15 UP” under the heading “ENVIRONMENTAL AND
 16 OTHER DEFENSE ACTIVITIES” under the heading
 17 “DEPARTMENT OF ENERGY” under title IV of divi-
 18 sion A of the American Recovery and Reinvestment Act
 19 of 2009 (Public Law 111–5; 123 Stat. 140).

20 **SEC. 3135. IDENTIFICATION IN BUDGET MATERIALS OF**
 21 **AMOUNTS FOR CERTAIN DEPARTMENT OF**
 22 **ENERGY PENSION OBLIGATIONS.**

23 The Secretary of Energy shall include in the budget
 24 justification materials submitted to Congress in support
 25 of the Department of Energy budget for a fiscal year (as

1 submitted with the budget of the President under section
 2 1105(a) of title 31, United States Code) specific identi-
 3 fication, as a budgetary line item, of the amounts required
 4 to meet the pension obligations of the Department of En-
 5 ergy for contractor employees at each facility of the De-
 6 partment of Energy operated using amounts authorized
 7 to be appropriated for the Department of Energy for the
 8 National Nuclear Security Administration or for defense
 9 environmental cleanup.

10 **TITLE XXXII—DEFENSE NU-**
 11 **CLEAR FACILITIES SAFETY**
 12 **BOARD**

13 **SEC. 3201. AUTHORIZATION.**

14 There are authorized to be appropriated for fiscal
 15 year 2010, \$26,086,000 for the operation of the Defense
 16 Nuclear Facilities Safety Board under chapter 21 of the
 17 Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

18 **TITLE XXXIII—MARITIME**
 19 **ADMINISTRATION**

20 **SEC. 3301. MARITIME ADMINISTRATION.**

21 Section 109 of title 49, United States Code, is
 22 amended to read as follows:

23 **“§ 109. Maritime Administration**

24 “(a) ORGANIZATION.—The Maritime Administration
 25 is an administration in the Department of Transportation.

1 “(b) MARITIME ADMINISTRATOR.—The head of the
2 Maritime Administration is the Maritime Administrator,
3 who is appointed by the President by and with the advice
4 and consent of the Senate. The Administrator shall report
5 directly to the Secretary of Transportation and carry out
6 the duties prescribed by the Secretary.

7 “(c) DEPUTY MARITIME ADMINISTRATOR.—The
8 Maritime Administrator shall have a Deputy Maritime Ad-
9 ministrator, who is appointed in the competitive service
10 by the Secretary, after consultation with the Adminis-
11 trator. The Deputy Administrator shall carry out the du-
12 ties prescribed by the Administrator. The Deputy Admin-
13 istrator shall be Acting Administrator during the absence
14 or disability of the Administrator and, unless the Sec-
15 retary designates another individual, during a vacancy in
16 the office of Administrator.

17 “(d) DUTIES AND POWERS VESTED IN SEC-
18 RETARY.—All duties and powers of the Maritime Adminis-
19 tration are vested in the Secretary.

20 “(e) REGIONAL OFFICES.—The Maritime Adminis-
21 tration shall have regional offices for the Atlantic, Gulf,
22 Great Lakes, and Pacific port ranges, and may have other
23 regional offices as necessary. The Secretary shall appoint
24 a qualified individual as Director of each regional office.
25 The Secretary shall carry out appropriate activities and

1 programs of the Maritime Administration through the re-
2 gional offices.

3 “(f) INTERAGENCY AND INDUSTRY RELATIONS.—

4 The Secretary shall establish and maintain liaison with
5 other agencies, and with representative trade organiza-
6 tions throughout the United States, concerned with the
7 transportation of commodities by water in the export and
8 import foreign commerce of the United States, for the pur-
9 pose of securing preference to vessels of the United States
10 for the transportation of those commodities.

11 “(g) DETAILING OFFICERS FROM ARMED FORCES.—

12 To assist the Secretary in carrying out duties and powers
13 relating to the Maritime Administration, not more than
14 five officers of the armed forces may be detailed to the
15 Secretary at any one time, in addition to details author-
16 ized by any other law. During the period of a detail, the
17 Secretary shall pay the officer an amount that, when
18 added to the officer’s pay and allowances as an officer in
19 the armed forces, make the officer’s total pay and allow-
20 ances equal to the amount that would be paid to an indi-
21 vidual performing work the Secretary considers to be of
22 similar importance, difficulty, and responsibility as that
23 performed by the officer during the detail.

24 “(h) CONTRACTS AND AUDITS.—

1 “(1) CONTRACTS.—In the same manner that a
2 private corporation may make a contract within the
3 scope of its authority under its charter, the Sec-
4 retary may make contracts for the United States
5 Government and disburse amounts to—

6 “(A) carry out the Secretary’s duties and
7 powers under this section and subtitle V of title
8 46; and

9 “(B) protect, preserve, and improve collat-
10 eral held by the Secretary to secure indebted-
11 ness.

12 “(2) AUDITS.—The financial transactions of
13 the Secretary under paragraph (1) shall be audited
14 by the Comptroller General. The Comptroller Gen-
15 eral shall allow credit for an expenditure shown to
16 be necessary because of the nature of the business
17 activities authorized by this section or subtitle V of
18 title 46. At least once a year, the Comptroller Gen-
19 eral shall report to Congress any departure by the
20 Secretary from this section or subtitle V of title 46.

21 “(i) AUTHORIZATION OF APPROPRIATIONS.—

22 “(1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, there are authorized to be
24 appropriated such amounts as may be necessary to

1 carry out the duties and powers of the Secretary re-
2 lating to the Maritime Administration.

3 “(2) LIMITATIONS.—Only those amounts spe-
4 cifically authorized by law may be appropriated for
5 the use of the Maritime Administration for—

6 “(A) acquisition, construction, or recon-
7 struction of vessels;

8 “(B) construction-differential subsidies in-
9 cident to the construction, reconstruction, or re-
10 conditioning of vessels;

11 “(C) costs of national defense features;

12 “(D) payments of obligations incurred for
13 operating-differential subsidies;

14 “(E) expenses necessary for research and
15 development activities, including reimbursement
16 of the Vessel Operations Revolving Fund for
17 losses resulting from expenses of experimental
18 vessel operations;

19 “(F) the Vessel Operations Revolving
20 Fund;

21 “(G) National Defense Reserve Fleet ex-
22 penses;

23 “(H) expenses necessary to carry out part
24 B of subtitle V of title 46; and

1 “(I) other operations and training expenses
 2 related to the development of waterborne trans-
 3 portation systems, the use of waterborne trans-
 4 portation systems, and general administration.

5 “(3) TRAINING VESSELS.—Amounts may not be
 6 appropriated for the purchase or construction of
 7 training vessels for State maritime academies unless
 8 the Secretary has approved a plan for sharing train-
 9 ing vessels between State maritime academies.”.

10 **DIVISION D—FUNDING TABLES**

11 **SEC. 4001. AUTHORIZATION OF AMOUNTS IN FUNDING TA-** 12 **BLES.**

13 (a) IN GENERAL.—Whenever a funding table in this
 14 division specifies a dollar amount authorized for a project,
 15 program, or activity, the obligation and expenditure of the
 16 specified dollar amount for the project, program, or activ-
 17 ity is hereby authorized, subject to the availability of ap-
 18 propriations.

19 (b) MERIT-BASED DECISIONS.—Decisions by agency
 20 heads to commit, obligate, or expend funds with or to a
 21 specific entity on the basis of a dollar amount authorized
 22 pursuant to subsection (a) shall be based on authorized,
 23 transparent, statutory criteria, or merit-based selection
 24 procedures in accordance with the requirements of sec-

1 tions 2304(k) and 2374 of title 10, United States Code,
2 and other applicable provisions of law.

3 (c) RELATIONSHIP TO TRANSFER AND REPROGRAM-
4 MING AUTHORITY.—An amount specified in the funding
5 tables in this division may be transferred or repro-
6 grammed under a transfer or reprogramming authority
7 provided by another provision of this Act or by other law.
8 The transfer or reprogramming of an amount specified in
9 such funding tables shall not count against a ceiling on
10 such transfers or reprogrammings under section 1001 of
11 this Act or any other provision of law, unless such transfer
12 or reprogramming would move funds between appropria-
13 tion accounts.

14 (d) ORAL AND WRITTEN COMMUNICATIONS.—No
15 oral or written communication concerning any amount
16 specified in the funding tables in this division shall
17 supercede the requirements of this section.

Calendar No. 92

11TH CONGRESS
1ST Session

S. 1393

A BILL

To authorize appropriations for fiscal year 2010 for
defense activities of the Department of Energy,
and for other purposes

JULY 2, 2009

Read twice and placed on the calendar